

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

Douglas E. Reuter,

Civil No. 11-331 (SRN/SER)

Plaintiff,

v.

**MEMORANDUM OPINION  
AND ORDER**

Jax Ltd., Inc.,

Defendant.

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Aaron W. Davis and Tye Biasco, Patterson Thunte Christensen Pedersen, P.A., 80 South Eighth Street, Suite 4800, Minneapolis, MN 55402-2100; and Dennis D. Reuter, 3416 Angie Circle, Coeur D'Alene, ID 83815, for Plaintiff.

Robert R. Weinstine and Brent A. Lorentz, Winthrop & Weinstine, P.A., 225 South Sixth Street, Suite 3500, Minneapolis, MN 55402-4629, for Defendant.

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SUSAN RICHARD NELSON, United States District Judge

This matter came before the Court on Plaintiff Douglas E. Reuter's request for reconsideration of this Court's Order of September 6, 2011 (Doc. No. 84). In that Order, the Court granted Defendant Jax Ltd., Inc.'s motion for summary judgment, which sought judgment on both counts of Plaintiff's Complaint, and denied Plaintiff's motion for leave to file a reply/surreply. (Doc. No. 83.)

Plaintiff now requests reconsideration pursuant to Local Rule 7.1(h). (Doc. No. 84.) Defendant opposes the request. (Doc. No. 85.) "Motions to reconsider are prohibited except by express permission of the Court, which will be granted only upon a

showing of compelling circumstances.” D. Minn. LR 7.1(h).<sup>1</sup> Such motions are “‘dimly view[ed].’” Gardner v. First American Title Ins. Co., 218 F.R.D. 216, 218 (D. Minn. 2003) (quoting Transclean Corp. v. Bridgewood Servs. Inc., 134 F. Supp. 2d 1049 (D. Minn. 2001)).

As the Eighth Circuit has noted, “[t]he Federal Rules of Civil Procedure do not mention motions for reconsideration.” Broadway v. Norris, 193 F.3d 987, 989 (8<sup>th</sup> Cir. 1999). Where, as here, the motion is “not directed to a final judgment, but rather to a nonfinal order,” a “‘motion for reconsideration’ should be construed as a Rule 60(b) motion,” because “Rule 59(e) motions are motions to alter or amend a *judgment*, not any nonfinal order.” Id. (emphasis in original) (noting that “[b]oth the standard of review and the precise questions on appeal depend on how” the motion is characterized).<sup>2</sup>

A Rule 60(b) motion, brought as a “motion for reconsideration,” “is not a vehicle for simple reargument on the merits,” even where the movant reargues the merits “somewhat more fully.” Id. at 989-90. Rule 60(b) only “authorizes relief based on

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<sup>1</sup> Addressing this District’s Local Rule 7.1, the Eighth Circuit has stated that it “doubt[s] that the local rule was intended to apply to post-judgment motions filed within the time limited prescribed in” Rule 59(e), which grants litigants the right to file such motions without first requesting leave to do so. Dubose v. Kelly, 187 F.3d 999, 1002 n.1 (1999). Rather, it assumed that the local rule “was intended to apply to litigants’ desire to get reconsideration of pre-judgment actions by the trial court.” Id.

<sup>2</sup> This Court granted Defendant’s motion for summary judgment on both counts of Plaintiff’s Complaint, but did not direct the entry of judgment because aspects of the merits–Defendant’s counterclaims–remain. (Doc. No. 83; Doc. No. 86.) Thus, the present motion is treated as one under Rule 60(b). See Elder-Keep v. Aksamit, 460 F.3d 979, 984-85 (8<sup>th</sup> Cir. 2006) (treating motion for reconsideration of a non-final order—an order for summary judgment order that did *not* resolve all of the issues on the merits—as a Rule 60(b) motion).

certain enumerated circumstances (for example, fraud, changed conditions, and the like).”  
Id. at 990.

After reviewing Plaintiff’s request, Defendant’s opposition, and the Order at issue, the Court denies the request for permission to file a motion for reconsideration. Plaintiff has not demonstrated the requisite compelling circumstances.

Based on the foregoing, and all the files, records and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Reuter’s request for permission to file a motion for reconsideration of this Court’s Order of September 6, 2011 [Doc. No. 84] is **DENIED**.

Dated: October 6, 2011

s/ Susan Richard Nelson  
SUSAN RICHARD NELSON  
United States District Judge